

**RECEIVED**

SEP 04 2014

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MINNESOTA** CLERK, U.S. DISTRICT COURT  
ST. PAUL, MINNESOTA

**Michelle J. Gensmer**

Plaintiff(s),

vs.

Case No. 14cv3358 JRT/TNL  
(To be assigned by Clerk of District Court)

**Corporate Collection Services, "CCS"**  
**Paychex, Inc.**

DEMAND FOR JURY TRIAL

YES ☒ NO ☐

Defendant(s).

(Enter the full name(s) of ALL defendants in  
this lawsuit. Please attach additional sheets  
if necessary).

**COMPLAINT**

**PARTIES**

1. List your name, address and telephone number. Do the same for any additional plaintiffs.

a. Plaintiff

Name	<b>Michelle J. Gensmer</b>
Street Address	<b>11511 W River Hills Dr.</b>
County, City	<b>Dakota County, Burnsville</b>
State & Zip Code	<b>Minnesota 55337</b>
Telephone Number	<b>(952) 380-8012</b>

**SCANNED**

SEP 04 2014

U.S. DISTRICT COURT ST. PAUL

2. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption.

a. Defendant No. 1

Name **Corporate Collection Services, dba CCS**  
Street Address **911 Panarama Trail S.**  
County, City **Rochester**  
State & Zip Code **New York 14625**

b. Defendant No. 2

Name **Paychex, Inc.**  
Street Address **911 Panarama Trail S.**  
County, City **Rochester**  
State & Zip Code **New York 14625**

c. Defendant No. 3

Name  
Street Address  
County, City  
State & Zip Code

**NOTE: IF THERE ARE ADDITIONAL PLAINTIFFS OR DEFENDANTS, PLEASE PROVIDE THEIR NAMES AND ADDRESSES ON A SEPARATE SHEET OF PAPER.**

Check here if additional sheets of paper are attached: ☐

Please label the attached sheets of paper to correspond to the appropriate numbered paragraph above (e.g. Additional Defendants 2.d., 2.e., etc.)

**JURISDICTION**

Federal courts are courts of limited jurisdiction. Generally, two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount of damages is more than \$75,000 is a diversity of citizenship case.

3. What is the basis for federal court jurisdiction? *(check all that apply)*



Federal Question



Diversity of Citizenship

4. If the basis for jurisdiction is Federal Question, which Federal Constitutional, statutory or treaty right is at issue? List all that apply.

**Telephone Consumer Protection Act 47 U.S.C. § 227**

5. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party? Each Plaintiff must be diverse from each Defendant for diversity jurisdiction.

Plaintiff Name:

State of Citizenship:

Defendant No. 1:

State of Citizenship:

Defendant No. 2:

State of Citizenship:

**Attach additional sheets of paper as necessary and label this information as paragraph 5.**

**Check here if additional sheets of paper are attached.** ☐

6. What is the basis for venue in the District of Minnesota? *(check all that apply)*



Defendant(s) reside in Minnesota



Facts alleged below primarily occurred in Minnesota



Other: explain

**Defendants conduct business in the state of Minnesota where Plaintiff resides. Facts of the complaint as alleged below primarily occurred in Minnesota.**

**STATEMENT OF THE CLAIM**

Describe in the space provided below the basic facts of your claim. The description of facts should include a specific explanation of how, where, and when each of the defendants named in the caption violated the law, and how you were harmed. Each paragraph must be numbered

separately, beginning with number 7. Please write each single set of circumstances in a separately numbered paragraph.

7.

**Plaintiff has a cell phone number of 952-380-8012. The cell phone is a personal cell phone line opened and used for personal use.**

**8. Plaintiff was reached by telephone, specifically text message, on her personal cell phone number of 952-380-8012 by Defendants beginning on Monday July 7, 2014 at 12:05pm. The message read "Please contact Corporate Collection Services immediately at 1-866-898-0162 regarding your Paychex account."**

**9. Plaintiff sent via certified mail, a letter to Defendants urging the cessation of text messages to her personal cell phone. The letter is dated July 9th, 2014.**

**10. Plaintiff received subsequent text messages with the same content as identified above on Wednesday July 9, 2014 at 11:35am and Monday July 21, 2014 at 11:05am. Despite the demand for cease.**

**Attach additional sheets of paper as necessary.**

**Check here if additional sheets of paper are attached:** ☒

**Please label the attached sheets of paper to as Additional Facts and continue to number the paragraphs consecutively.**

#### **REQUEST FOR RELIEF**

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking.

**14. Defendants violated 47 U.S.C. § 227(b)(1)(A)(iii) by continuing to send text messages to Plaintiff for commercial use.**

**15. Plaintiff may bring action to any state court for damages up to \$500.00 per violation under 47 U.S.C. § 227(b)(3)(B). If the court finds that the defendant willfully or knowingly violated the regulations prescribed under 47 U.S.C. § 227(b)(3)(C), the court may, in its discretion, increase the amount of the award up to 3 times the amount available under subparagraph (B).**

**16. Based of facts stated above it is clear that Defendants willfully and knowingly violated these regulations. Furthermore, Defendants caused intentional emotional and financial stress.**

**17. Plaintiff seeks relief from the courts in the amount \$16,000.00**

11. Plaintiff, a registrant on the National Do Not Call list, and having received no other opt out option as required by 47 C.F.R. § 64.1200(c)(2), responded to the text message on Tuesday July 22, 2014 at 2:18pm with "I already sent you a cease and desist letter. This is my cell phone. STOP."

12. Plaintiff received another text message from Defendants on Monday August 4, 2014 at 10:35am with the same content as defined above. The same text message was sent again on Monday August 11, 2014 at 10:05am and again on Wednesday August 20, 2014 at 10:35am.

13. Defendants willfully and knowingly violated Plaintiff's rights under the Telephone Consumer Protection Act 47 U.S.C. § 227.

Signed this **4th** day of **September, 2014.**

Signature of Plaintiff

A handwritten signature in black ink, appearing to read "Michael D. [unclear]", written over a horizontal line.

Mailing Address

**11511 W River Hills Drive  
Burnsville, MN 55337**

Telephone Number

**(952) 380-8012**

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary.